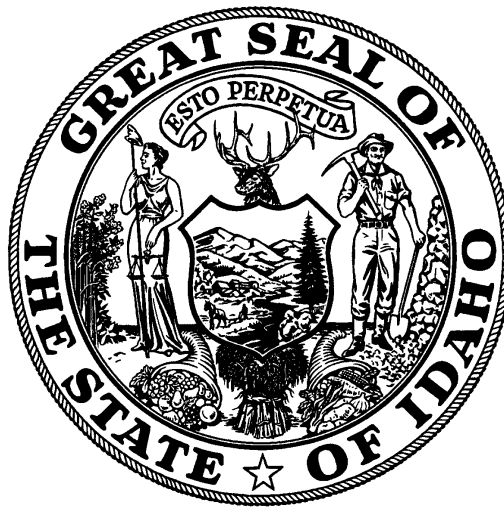


# **PENDING FEE RULES**

## **COMMITTEE RULES**

### **REVIEW BOOK**

**Submitted for Review Before**  
**Senate Agricultural Affairs Committee**  
**63rd Idaho Legislature**  
**First Regular Session**



*Prepared by:*

*Office of the Administrative Rules Coordinator  
Department of Administration*

*January 2015*

**SENATE AGRICULTURAL AFFAIRS COMMITTEE**

**ADMINISTRATIVE RULES REVIEW**

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**2015 Legislative Session**

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# IDAPA 02 - IDAHO STATE DEPARTMENT OF AGRICULTURE

## 02.02.14 - RULES FOR WEIGHTS AND MEASURES

DOCKET NO. 02-0214-1403

### NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2015 Idaho State Legislature for final approval. Pursuant to Section 67-5224 and 67-5291, Idaho Code, this pending rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 71-111, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 3rd, 2014 Idaho Administrative Bulletin, [Vol. 14-9, pages 19 and 20](#).

**IDAHO CODE SECTION 22-101A STATEMENT:** This rule does regulate an activity not regulated by the federal government. The federal government does not regulate the licensing of commercial weighing devices.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased:

IDAPA 02.02.14.014 requires that a device license be prorated based on when a device is placed into service. The proposed change is to remove this language. This change will require new businesses or existing customers who add a device during the license period to pay the full license fee when a device is placed into service in lieu of prorating the license fee.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There will be no fiscal impact to the General Fund. ISDA anticipates a positive impact of approximately five hundred dollars (\$500.00) in annual revenue to the Weights and Measures dedicated fund.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending fee rule, contact Stacie Ybarra, Program Specialist at (208) 332-8692.

DATED this 6th day of October, 2014.

Brian J. Oakey, Deputy Director  
Idaho State Department of Agriculture  
2270 Old Penitentiary Road  
Boise, ID 83712  
P.O. Box 790, Boise, ID 83701-0790  
Phone: (208) 332-8500  
Fax: (208) 334-7120

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 71-111, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 17, 2014.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made no later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Amend IDAPA 02.02.14, Section 014. The rule change will remove language requiring proration of device license fees.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased:

IDAPA 02.02.14, Section 014 requires that a device license be prorated based on when a device is placed into service. The proposed change is to remove this language. This change will require new businesses or existing customers who add a device during the license period to pay the full license fee when a device is placed into service in lieu of prorating the license fee.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking:

There will be no fiscal impact to the General Fund. ISDA anticipates a positive impact of approximately \$500 in annual revenue to the Weights and Measures dedicated fund.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 2, 2014 Idaho Administrative Bulletin, [Vol. 14-7, page 21](#).

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: NA

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Stacie Ybarra, Program Specialist at (208) 332-8692.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 24, 2014.

DATED this 25th day of July, 2014.

### **LSO RULES ANALYSIS MEMO**

**THE FOLLOWING IS THE TEXT OF FEE DOCKET NO. 02-0214-1403**

**014. ANNUAL LICENSE PERIOD.**

Annual license applications and fees are due February 1 of each year and all licenses expire on January 31 of the following year. ~~License fees for new devices installed during the annual licensing period shall be prorated based on the remaining licensing cycle.~~ (2-13-04)(    )

**IDAPA 02 - IDAHO STATE DEPARTMENT OF AGRICULTURE**

**02.04.19 - RULES GOVERNING DOMESTIC CERVIDAE**

**DOCKET NO. 02-0419-1401**

**NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2015 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 25-3704, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

There are no changes to the pending fee rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 3rd, 2014, Idaho Administrative Bulletin, [Vol. 14-9, pages 48 through 55](#).

The amendments made in the proposed rule make the Domestic Cervidae Program fiscally solvent by allowing for an increased fee schedule and a reduction in facility inspection frequency which will increase program revenue and decrease program management expenses. Furthermore, the burden of the increased fee schedule to the domestic cervidae producers will be offset by a reduction in required CWD surveillance and will result in an overall net reduction in operational expenses to the majority of producers.

**IDAHO CODE SECTION 22-101A STATEMENT:** This rule does not regulate an activity not already regulated by the federal government, nor is it broader in scope or more stringent than federal regulations.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 25-3708, Idaho Code:

The annual assessment fee for domestic elk will be increased from five dollars (\$5) per head per year, to ten dollars (\$10) per head per year. These funds are used to cover the cost of administering the program, as described in IDAPA 02.04.19.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending fee rule, contact Dr. Scott Leibsle, Deputy Administrator at (208) 332-8614.

DATED this 6th day of October, 2014.

Brian J. Oakey, Deputy Director  
Idaho State Department of Agriculture  
2270 Old Penitentiary Rd. Boise, ID 83712  
P.O. Box 790, Boise, ID 83701-0790  
Phone: (208) 332-8500  
Fax: (208) 334-7120

**THE FOLLOWING NOTICE WAS PUBLISHED WITH  
THE TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is September 1, 2014.

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 25-3704, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 17, 2014.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Amend Section 010 - The rule change defines the term “harvest” as it pertains to animals on a domestic cervidae facility.

Amend Section 090 - The rule change will establish the new fee schedule for cervidae producers, collected by ISDA, to cover the cost of administering the program, pursuant to the change in statute.

Amend Section 101 - The rule change will alter the frequency of required facility inspections to coincide with the statutory amendment.

Amend Section 209 - The rule change will describe how the Administrator will implement Chronic Wasting Disease Surveillance standards for facilities at a higher risk of disease exposure.

Amend Section 500 - The rule change will establish the new Chronic Wasting Disease surveillance standards for cervids that die or are harvested on cervidae facilities.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section(s) 67-5226(1), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The domestic cervidae industry is at risk for a program shut-down for a third consecutive year due to a shortage of funds unless the 2014 amendments to the domestic cervidae law (House Bill 431) are implemented as a temporary rule, prior to fees being collected at the end of this calendar year. The temporary rule has already been negotiated with stakeholders, who have reached a consensus on all of the changes.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased:

The annual assessment fee for domestic elk will be increased from five dollars (\$5) per head per year, to ten dollars (\$10) per head per year. These funds are used to cover the cost of administering the program, as described in IDAPA 02.04.19.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking:

The fiscal impact to the industry due to the increased fee schedule will be offset by the reduction of chronic wasting disease testing requirements. ISDA anticipates a net positive fiscal impact to the industry and to the dedicated fund utilized to manage the domestic cervidae program.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the June 2014 Idaho Administrative Bulletin, [Vol. 14-6, page 27](#). A negotiated rulemaking meeting was held at the Idaho State Department of Agriculture on July 1, 2014. There were twenty (20) people in attendance and multiple comments were entered into the record and taken into consideration when drafting this temporary and proposed rule. The final language represents consensus of the stakeholders present at the negotiated rulemaking.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: NA

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Dr. Scott Leibsle, Deputy Administrator at (208) 332-8614.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 24, 2014.

DATED this 7th Day of August, 2014.

**LSO RULES ANALYSIS MEMO**

**THE FOLLOWING IS THE TEXT OF FEE DOCKET NO. 02-0419-1401**

**010. DEFINITIONS.**

**01. Accredited Veterinarian.** A veterinarian approved by the Administrator and USDA/APHIS/VS, in accordance with Title 9, Part 161, CFR, January 1, 2004, to perform functions required by cooperative state-federal animal disease control and eradication programs. (4-6-05)

**02. Administrator.** Administrator of the Division of Animal Industries or his designee. (4-2-03)

**03. Approved Laboratory.** NVSL, an AAVID accredited laboratory that is qualified to perform CWD diagnostic procedures, or a laboratory designated by the Administrator to perform CWD diagnostic procedures. (4-2-03)

**04. Approved Slaughter Establishment.** A USDA inspected slaughter establishment at which ante-mortem and post-mortem inspection is conducted by USDA inspectors. (4-2-03)

**05. Area Veterinarian in Charge.** The USDA/APHIS/VS veterinary official who is assigned to supervise and perform official animal health activities in Idaho. (4-2-03)

**06. Breed Associations and Registries.** Organizations maintaining permanent records of ancestry or pedigrees of animals, individual animal identification records and records of ownership. (4-2-03)

**07. Certificate.** An official document issued by a state or federal animal health official or an accredited veterinarian at the point of origin of a shipment of cervidae, which contains information documenting the age, sex, species, individual identification of the animals, the number of animals, the purpose of the movement, the points of origin and destination, the consignor, the consignee, the status of the animals relative to official diseases, test results and any other information required by the state animal health official for importation or translocation. (4-2-03)

**08. Cervid Herd.** One (1) or more domestic cervidae or groups of domestic cervidae maintained on common ground or under common ownership or supervision that may be geographically separated but can have interchange or movement. (4-2-03)

**09. Cervidae.** Deer, elk, moose, caribou, reindeer, and related species and hybrids including all members of the cervidae family and hybrids. (4-2-03)

- 10. Chronic Wasting Disease.** A transmissible spongiform encephalopathy of cervids, which is a nonfebrile, transmissible, insidious, and degenerative disease affecting the central nervous system of cervidae. (4-2-03)
- 11. Commingling.** Within the last five (5) years, the animals have had direct contact with each other, had less than thirty (30) feet of physical separation, or shared management equipment, pasture, or surface water sources, except for periods of less than forty-eight (48) hours at sales or auctions when a state or federal animal health official has determined such contact presents minimal risk of CWD transmission. (4-2-03)
- 12. Custom Exempt Slaughter Establishment.** A slaughter establishment that is subject to facility inspection by USDA, but which does not have ante-mortem and post-mortem inspection of animals by USDA inspectors. (4-2-03)
- 13. CWD-Adjacent Herd.** A herd of domestic cervidae occupying premises that border a premises occupied by a CWD positive herd, including herds separated by roads or streams. (4-6-05)
- 14. CWD-Exposed Animal.** A cervid animal that is not exhibiting any signs of CWD, but has had contact within the last five (5) years with cervids from a CWD-positive herd or the animal is a member of a CWD-exposed herd. (4-2-03)
- 15. CWD-Exposed Herd.** A herd of cervidae in which no animals are exhibiting signs of CWD, but:
- a.** An epidemiological investigation indicates that contact with CWD positive animals or contact with animals from a CWD positive herd has occurred in the previous five (5) years; or (4-2-03)
  - b.** A herd of cervidae occupying premises that were previously occupied by a CWD positive herd within the past five (5) years as determined by the designated epidemiologist; or (4-2-03)
  - c.** Two (2) herds that are maintained on a single premises even if they are managed separately, have no commingling, and have separate herd records. (4-6-05)
- 16. CWD-Positive Cervid.** A domestic cervid on which a diagnosis of CWD has been confirmed through positive test results on any official cervid CWD test by an approved laboratory. (4-2-03)
- 17. CWD-Positive Herd.** A domestic cervidae herd in which any animal(s) has been diagnosed with CWD, based on positive laboratory results, from an approved laboratory. (4-2-03)
- 18. CWD-Suspect Cervid.** A domestic cervid for which laboratory evidence or clinical signs suggests a diagnosis of CWD. (4-2-03)
- 19. CWD-Suspect Herd.** A domestic cervidae herd in which any animal(s) has been determined to be a CWD-suspect. (4-2-03)
- 20. Department.** The Idaho State Department of Agriculture. (4-2-03)
- 21. Death Certificate.** A form, approved by the administrator, provided by the Division for the reporting of cervidae deaths and for reporting sample submission for CWD testing. (4-6-05)
- 22. Designated Epidemiologist.** A state or federal veterinarian who has demonstrated the knowledge and ability to perform the functions required under these rules and who has been selected by the Administrator to fulfill the epidemiology duties relative to the state domestic cervidae disease control program. (4-2-03)
- 23. Director.** The Director of the Idaho State Department of Agriculture, or his designee. (4-2-03)
- 24. Disposal.** Final disposition of dead cervidae. (4-2-03)



25. **Division.** Idaho State Department of Agriculture, Division of Animal Industries. (4-2-03)
26. **Domestic Cervidae.** Fallow deer (*Dama dama*), elk (*Cervus elaphus*) or reindeer (*Rangifer tarandus*) owned by a person. (4-2-03)
27. **Domestic Cervidae Ranch.** A premises where domestic cervidae are held or kept, including multiple premises under common ownership. (4-6-05)
28. **Electronic Identification.** A form of unique, permanent individual animal identification such as radio frequency identification tag, radio frequency identification implant, or other forms approved by the Administrator. (4-6-05)
29. **Escape.** Any domestic cervidae located outside the perimeter fence of a domestic cervidae ranch and not under the immediate control of the owner or operator of the domestic cervidae ranch. (4-2-03)
30. **Federal Animal Health Official.** An employee of USDA/APHIS/Vs who is authorized to perform animal health activities. (4-6-05)
31. **Harvest.** Any healthy domestic cervid that is intentionally and lethally removed from a domestic cervidae facility, by an owner, designated employee or customer of the facility, strictly for the purposes of either shooting or meat production. ( )
- ~~312.~~ **Herd of Origin.** A cervid herd, on any domestic cervidae ranch or other premise, where the animals were born, or where they were kept for at least one (1) year prior to date of shipment. (4-2-03)
- ~~323.~~ **Herd Status.** Classification of a cervidae herd with regard to CWD. (4-2-03)
- ~~334.~~ **Intrastate Movement Certificate.** A form approved by the Administrator, and available from the Division, to document the movement of domestic cervidae between premises within Idaho. (4-2-03)
- ~~345.~~ **Individual CWD Herd Plan.** A written herd management agreement and testing plan developed by the herd owner and approved by the Administrator to identify and eradicate CWD from a positive, source, suspect, exposed, or adjacent herd. (4-7-11)
- ~~356.~~ **Limited Contact.** Incidental contact between animals of different herds in separate pens off of the herd's premises at fairs, shows, exhibitions and sales. (4-2-03)
- ~~367.~~ **National CWD Herd Certification Program.** A federal-state-industry cooperative program administered by APHIS and implemented by participating states that establishes CWD surveillance and testing standards that owners must achieve before interstate transport of cervids will be permitted. (3-20-14)
- ~~378.~~ **Official CWD Test.** A test approved by the Administrator and conducted at an approved laboratory to diagnose CWD. (4-2-03)
- ~~389.~~ **Official Identification.** Identification, approved by the Administrator, that individually, uniquely, and permanently identifies each cervid. (4-2-03)
- ~~3940.~~ **Operator.** A person who has authority to manage or direct a domestic cervidae ranch. (4-2-03)
- ~~401.~~ **Owner.** The person that has legal title to, or has financial control of, any domestic cervidae or domestic cervidae ranch (4-2-03)
- ~~412.~~ **Person.** Any individual, association, partnership, firm, joint stock company, joint venture, trust, estate, political subdivision, public or private corporation, or any legal entity, which is recognized by law as the subject of rights and duties. (4-2-03)

- 423. Premises.** The ground, area, buildings, and equipment utilized to raise, propagate, control, or harvest domestic cervidae. (4-2-03)
- 434. Quarantine.** An order issued on authority of the Administrator, by a state or federal animal health official or accredited veterinarian, prohibiting movement of cervids from any location without a written restricted movement permit. (4-2-03)
- 445. Quarantine Facility.** A confined area where selected domestic cervidae can be secured and isolated from all other cervidae and livestock. (4-2-03)
- 456. Ranch Management Plan.** A written plan for a domestic cervidae ranch that sets forth best management practices that mitigates the introduction or dissemination of disease among domestic cervidae. (4-7-11)
- 467. Reidentification.** The identification of a domestic cervid which had been officially identified, as provided by this chapter, but which has lost the official identification device, or the tattoo or official identification device has become illegible. (4-2-03)
- 4748. Restrain.** The immobilization of domestic cervidae in a chute, other device, or by other means for the purpose of efficiently, effectively, and safely inspecting, treating, vaccinating, or testing. (4-2-03)
- 4849. Restricted Movement Permit.** An official document that is issued by the Administrator, AVIC, or an accredited veterinarian for movement of animals from positive, suspect, or exposed herds. (4-2-03)
- 4950. Source Herd.** A herd from which at least one (1) cervid has originated within the previous five (5) years and that cervid has been diagnosed CWD positive. (4-2-03)
- 501. State Animal Health Official.** The Administrator, or his designee. (4-2-03)
- 512. Status Date.** The date on which the Administrator approves in writing a herd status change with regard to CWD. (4-2-03)
- 523. Trace Back Herd.** An exposed herd in which at least one (1) CWD positive animal resided within any of the previous sixty (60) months prior to diagnosis with CWD. (4-2-03)
- 534. Trace Forward Herd.** A herd that has received exposed animals from a positive herd within sixty (60) months prior to the diagnosis of CWD in the positive herd or from the identified point of entry of CWD into the positive herd. (4-2-03)
- 545. Traceback.** The process of identifying the movements and the herd of origin of CWD positive, or exposed animals, including herds that were sold for slaughter. (4-2-03)
- 556. Wild Cervidae.** Any cervid animal not owned by a person. (4-2-03)
- 567. Wild Ungulate.** Any four (4) legged, hooved herbivore, including cervids and other ruminants, not owned by a person. (4-6-05)
- 578. Wild Ungulate Cooperative Herd Plan.** A plan, developed cooperatively by the owner of the domestic cervidae ranch, the ISDA, and the Idaho Department of Fish and Game to determine the disposition of any wild ungulates that are found to be located on a domestic cervidae ranch. (4-6-05)

**(BREAK IN CONTINUITY OF SECTIONS)**

**090. FEES.**

- 01. Annual Assessment Fee.** A fee, not to exceed ~~five~~ ten dollars (~~\$5~~10) per head per year on elk or

three dollars (\$3) per head per year on fallow deer and reindeer, is ~~to be~~ hereby assessed on all domestic cervidae in the state to cover the cost of administering the program covered in these rules. The fee shall include all domestic cervidae present at the ranch as of December 31 and all domestic cervidae ~~imported from outside of the state~~ that die during the same calendar year. This fee is due January first of each year. The annual assessment fee may be reduced if program revenue accumulates to a balance of at least one hundred thousand dollars (\$100,000) in excess of the projected annual cost of operating the program, as determined by the Department on July 1 of each year.

~~(4-7-11)~~( )

**02. Import, Export, and Movement Fees.** The fees imposed in Section 25-3708(2) through (4), Idaho Code, are due no later than December 31 of each year, but the Department requests all movement fees be submitted within five (5) business days of the movement of the domestic cervids. ( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**101. DOMESTIC CERVIDAE RANCH FACILITY REQUIREMENTS.**

All domestic cervidae ranches are required to have facilities, including but not limited to perimeter fence, restraining system, gathering system, water system, and if required, a quarantine facility. (4-2-03)

**01. Maintenance.** All facilities shall be maintained, at all times that domestic cervidae are present, to prevent the escape of domestic cervidae or ingress of wild cervidae. (4-2-03)

**02. Inspections.** To ensure compliance with this chapter, state or federal animal health officials shall inspect all premises where domestic cervidae are, or will be, possessed, controlled, harvested, propagated, held, or kept. (4-2-03)

**a.** Each domestic cervidae ranch shall be inspected ~~at least annually~~ no less than once every five (5) years. Domestic cervidae ranches may be inspected more frequently if requested by the owner or if specified in a ranch management plan. The Administrator may require additional facility inspections as necessary to aid in the prevention, control, or eradication of disease or to ensure compliance with the provisions of this chapter or other state or federal rules applicable to domestic cervidae. ~~(4-2-03)~~( )

**b.** All facilities relating to the handling or raising of domestic cervidae shall be inspected. (4-2-03)

**(BREAK IN CONTINUITY OF SECTIONS)**

**209. RANCH MANAGEMENT PLAN.**

**01. Voluntary Ranch Management Plan.** A domestic cervidae ranch may apply, on a form prescribed by the Administrator, to enter into a voluntary ranch management plan. The ranch management plan will be developed cooperatively by the owner or authorized agent and the Administrator. For the ranch management plan, the Administrator will conduct a risk assessment considering the factors in Subsection 209.03. A voluntary ranch management plan may, notwithstanding other rule requirements to the contrary, establish inventory verification requirements and CWD sampling requirements specific for a domestic cervidae ranch. Failure to adhere to an approved voluntary ranch management plan is a violation of these rules. (4-7-11)

**02. Mandatory Ranch Management Plan.** A domestic cervidae ranch shall be required to develop and implement an approved ranch management plan if the ranch is found in violation of Sections 060, 204 or 500 of these rules. The ranch management plan must be completed and implemented within six (6) months of the disposition of the violation. For the ranch management plan, the Administrator will conduct a risk assessment considering the factors in Subsection 209.03. Failure to comply with the mandatory ranch management plan is a violation of these rules. This requirement will become effective July 1, 2012 (4-7-11)

**03. Risk Assessment for Ranch Management Plans.** The Administrator will conduct a risk

assessment for each ranch management plan. A ranch management plan will not include a double fencing requirement but may require that double gates be installed. The Administrator will consider the following factors when conducting a risk assessment at a domestic cervidae ranch: (4-7-11)

a. Risk of egress. The risk of egress may be evaluated based on, but not limited to, history of domestic cervidae escape during the previous five (5) years, recovery rate of escaped domestic cervidae, length of time domestic cervidae were outside of the perimeter fence, annual average precipitation, topography, altitude and tree density. (4-7-11)

b. Risk of ingress. The risk of ingress may be evaluated on, but not limited to, history of ingress during the previous five (5) years, annual average precipitation, topography, altitude, tree density and proximity to wildlife migration corridors. (4-7-11)

c. Compliance with CWD sample submission. The Administrator may, based on a risk *based* assessment *of the facility*, *waive up to twenty percent (20%) adjust the number* of *the* tissue sample submissions required under this rule. The *waiver adjustment* will be based on, but not limited to, the following: (4-7-03)(    )

i. *Whether* ~~F~~the domestic cervidae on the ranch have *not had contact commingled* with any *animals domestic cervids* of unknown CWD status. (4-7-03)(    )

ii. *Whether* ~~F~~the domestic cervidae ranch *must be has been* in compliance with all requirements of Title 25, Chapter 35, Idaho Code, and these rules. (4-7-03)(    )

iii. *Whether* ~~F~~the domestic cervidae ranch *must have no has had* documented cases of ingress of wild cervids or egress of domestic cervidae within *the* eighteen (18) months *of the request for a waiver prior to the risk assessment*. (4-7-03)(    )

**(BREAK IN CONTINUITY OF SECTIONS)**

**500. SURVEILLANCE FOR CWD.**

**01. Slaughter Surveillance.** Brain tissue from *one hundred percent (100%) no less than ten percent (10%)* of all domestic cervidae sixteen (16) months of age or older that are slaughtered at approved slaughter establishments or custom exempt slaughter establishments shall be submitted by the owner of the slaughtered cervidae to official laboratories to be tested or examined for CWD as provided for in these rules. *Tissues samples submitted to an official laboratory that are untestable or are given an indeterminate test result shall not count towards the tissue submission requirement.* (4-2-08)(    )

**02. Domestic Cervidae Ranch Surveillance.** Unless a domestic cervidae ranch is operating with a ranch management plan approved by the Administrator, brain tissue from *one hundred percent (100%) no less than ten percent (10%)* of all domestic cervidae sixteen (16) months of age or older that *die or* are harvested on domestic cervidae ranches shall be submitted *by the owner or operator of the domestic cervidae ranch to official laboratories to be tested or examined for CWD, as provided for in these rules, except Reindeer and fallow deer unless the Reindeer or fallow deer are part of a CWD positive, exposed, trace, source or suspect herd or part of an elk herd for CWD testing. In addition to the tissue samples from the Harvested domestic cervidae, brain tissue from one hundred percent (100%) of all domestic cervidae sixteen (16) months of age or older that die for any reason other than being harvested shall also be submitted for CWD testing. Reindeer and fallow deer shall be exempt from CWD testing unless the reindeer and fallow deer are part of a CWD positive, exposed, trace, source, or suspect herd or part of an elk herd. The owner or operator of the domestic cervidae ranch shall submit all tissue samples to an official laboratory to be tested for CWD, as provided for in these rules. Tissues samples submitted to an official laboratory that are untestable or are given an indeterminate test result shall not count towards the tissue submission requirement.* In the event a domestic cervidae ranch cannot submit a *viable testable* brain sample, the domestic cervidae ranch shall submit, on a form approved by the Administrator, a waiver request within forty eight (48) hours of determining that a *viable testable* brain sample cannot be submitted. (4-7-11)(    )

## IDAPA 02 - DEPARTMENT OF AGRICULTURE

### 02.06.05 - RULES GOVERNING DISEASES OF HOPS (*HUMULUS LUPULUS*)

DOCKET NO. 02-0605-1401

#### NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2015 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and of full force and effect upon adoption of the concurrent resolution, unless the rule is rejected.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 22-2006, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

There are no changes to the pending rule and it is being adopted as originally proposed. The original text of the proposed rule was published in the October 1, 2014 Idaho Administrative Bulletin, **Vol. 14-10, pages 24 through 28.**

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and is described herein:

The fees and charges associated with the inspection of hops for certificates and permits allowing shipment will be assessed according to IDAPA 02.06.04, "Idaho Department of Agriculture, Phytosanitary and Post-Entry Certification Rules," Section 500.

**IDAHO CODE SECTION 22-101A STATEMENT:** This rule regulates the movement of potentially pathogenic green hops matter into the state. This movement is not regulated by the federal government. This rule protects against diseases of concern to the hops industry and helps meet the importation requirements of other states under quarantine.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: ISDA does not anticipate any negative fiscal impact.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Jared Stuart, Section Manager, Plant Industries Field Services, 208-332-8620. Materials pertaining to this rulemaking can be found on the ISDA web site at the following web address: [http://www.agri.idaho.gov/Categories/LawsRules/sub\\_rules/Rulemaking.php](http://www.agri.idaho.gov/Categories/LawsRules/sub_rules/Rulemaking.php).

DATED this 3rd Day of November, 2014.

Brian J. Oakey  
Deputy Director  
Idaho State Department of Agriculture  
2270 Old Penitentiary Rd.  
P.O. Box 790  
Boise, ID 83701  
Phone: (208) 332-8500  
Fax: (208) 334-2170

**THE FOLLOWING NOTICE WAS PUBLISHED WITH  
THE TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is September 1, 2014.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 22-2006, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 15, 2014.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The rule is being amended to change the hops quarantine area to allow free movement of hops green matter among Idaho, Oregon, and Washington. The rule requires a negative disease test and a Clean Plant Health Network certification prior to shipment to Idaho if the hops green matter is imported from outside of the three-state area.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

This temporary rule would maintain the health of Idaho's commercial hops industry, while allowing access to safe propagation sources for the general public.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased:

The fees and charges associated with the inspection of hops for certificates and permits allowing shipment will be assessed according to IDAPA 02.06.04, "Idaho Department of Agriculture, Phytosanitary and Post-Entry Certification Rules," Section 500.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: ISDA does not anticipate any negative fiscal impact.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 4, 2014, Idaho Administrative Bulletin, **Vol. 14-6, page 33**. A negotiated rulemaking meeting was held at the University of Idaho Parma Research and Extension Center on June 16, 2014. A representative of the Idaho Hops Commission was present and provided comments to the draft rule. The final language of the temporary and proposed rule incorporates the comments from the industry representative.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: NA

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Jared Stuart, Section Manager, Plant Industries Field Services, 208-332-8620 or email [Jared.Stuart@agri.idaho.gov](mailto:Jared.Stuart@agri.idaho.gov). Materials pertaining to this rulemaking can be found on the ISDA web site at the following web address: [http://www.agri.idaho.gov/Categories/LawsRules/sub\\_rules/Rulemaking.php](http://www.agri.idaho.gov/Categories/LawsRules/sub_rules/Rulemaking.php).



Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2014.

DATED this 29th Day of August, 2014.

LSO RULES ANALYSIS MEMO

THE FOLLOWING IS THE TEXT OF FEE DOCKET NO. 02-0605-1401

001. TITLE AND SCOPE.

01. **Title.** The title of this chapter is IDAPA 02.06.05, "Rules Governing Diseases of Hops (*Humulus lupulus*)."

02. **Scope.** This chapter has the following scope: ~~This rule~~ establishes definitions, regulated pests, regulated products, control areas, ~~procedures for the certification of propagative material to be shipped into Idaho, and inspection procedures for propagative material produced in Idaho~~ quarantine areas and special permits. ~~This rule~~ requires farm machinery to be clean of plant debris and soil, ~~and fields to be posted.~~ ~~S~~sets forth consequences if a regulated pest is found, ~~and including~~ penalties for violations, ~~and S~~sets a fee schedule ~~for inspections and makes allowances for exemptions from the rule.~~ The official citation of this chapter is IDAPA 02.06.05 et seq. For example, the citation for this Section is IDAPA 02.06.05.001. ~~(3-19-99)( )~~

(BREAK IN CONTINUITY OF SECTIONS)

007. FINDINGS.

The revision of IDAPA 02.06.05, "Rules Governing Diseases of Hops (*Humulus lupulus*)," will confer benefits to the Idaho hop industry ~~and members of the public.~~ ~~Powdery mildew of hops is not known to be in Idaho. The addition of powdery mildew to the list of regulated pests is necessary to prevent the introduction of powdery mildew contaminated hop propagating materials into Idaho. The revision of~~ ~~This rule will comply with~~ ~~provide for consistency among~~ the quarantine rules of Oregon, Washington, and Idaho for the shipment of hop propagating materials ~~from among~~ Idaho, ~~to~~ Oregon, ~~and~~ Washington. ~~In order to prevent the introduction of powdery mildew contaminated hop propagating materials into Idaho, the Department finds it necessary to make this revision effective immediately.~~ ~~(5-3-03)( )~~

(BREAK IN CONTINUITY OF SECTIONS)

012. REGULATED PESTS.

01. **Verticillium Wilt.** ~~Plant Material infected with the disease caused by the fungus~~ *Verticillium wilt nonalfalvae* (formerly known as *Verticillium albo-atrum* Reinke and Berth.) ~~a persistent soil-borne fungus disease of hops~~ and any species or strains of the genus *Verticillium* ~~virulently~~ pathogenic to hops. ~~(3-19-99)( )~~

02. **Powdery Mildew.** ~~Powdery mildew~~ ~~Plant Material infected with the disease~~ caused by ~~all developmental stages and biotypes of~~ the fungus *Podosphaera macularis* (Wallr. Fr.), ~~synonyms~~ *Sphaerotheca macularis* (*S. humuli* Wallr. Fr.) ~~Lind and~~ *Sphaerotheca humuli* (Burril) Lind. ~~(3-19-99)( )~~

03. Hop Stunt Viroid. Plant Material infected with the disease caused by the viroid *Hostuviroid hop stunt viroid* and all strains and genetic variants associated with the genus. ( )

04. Ilarvirus Species. Plant Material infected with the disease caused by virus species within the Genus *Ilarvirus*, including but not limited to Apple Mosaic Virus and Prunus Necrotic Ringspot Virus. ( )

013. -- 049. (RESERVED)

050. REGULATED ~~PRODUCTS~~ ARTICLES.

01. ~~Rootstocks~~ **Plant Material.** ~~For example, rhizomes, strap cuttings, or greenwood cuttings of all species of the genus *Humulus*~~ Plants and all plant parts of hops, except kiln dried cones. (8-1-80)( )

02. **Machinery.** Machinery, vehicles, tools, equipment, trellis poles, wire, anchor irons, and any other appurtenances used in the culture and/or production of hops. (8-1-80)

051. -- 099. (RESERVED)

100. ~~CONTROL~~ QUARANTINE AREA.

~~Except as stated in Subsection 350.03 of this rule, the control area is Bonner and Kootenai Counties, state of Idaho~~ All areas outside of the territorial borders of Idaho, Oregon, and Washington. (4-6-05)( )

101. -- 149. (RESERVED)

150. ~~ELIGIBLE ROOTSTOCKS~~ **RESTRICTIONS ON IMPORT.**

~~No person may import restricted articles from the quarantined area into Idaho unless the person importing the regulated articles first obtains a special permit from the department as set forth in Section 200.~~ ( )

~~01. Eligibility.~~ ~~Only rootstocks eligible for phytosanitary certification may be imported into the control area or transported as planting stock within the area. Eligibility will be established by meeting the following requirements:~~ (8-1-80)

~~a. Imported rootstocks.~~ (8-1-80)

~~i. A desired clone must be grown under observation at a state or federal hop research facility in Idaho, Washington, Colorado, or Oregon for two (2) consecutive years or growing seasons with no evidence of *Verticillium* wilt or powdery mildew.~~ (3-19-99)

~~ii. Only rooted aerial stem cuttings or apical meristems derived from clones having undergone the two (2) year observation period may be imported into the control area.~~ (8-1-80)

~~iii. Colonies derived from eligible clones may serve as sources of eligible rootstocks but only after two (2) consecutive growing seasons in a commercial yard or nursery within the control area.~~ (8-1-80)

~~iv. Eligible clonal stocks must be accompanied by a phytosanitary certificate when imported into the control area. A copy of the certificate must be filed with the Idaho State Department of Agriculture, Division of Plant Industries, at least ten (10) days prior to shipment. The certificate must affirm freedom from *Verticillium* wilt and powdery mildew and compliance with Subsections 150.01.a.i. through 150.01.a.iii.~~ (3-19-99)

~~b. Eligible rootstocks from within the control area.~~ (8-1-80)

~~i. The owner of rootstocks may move existing eligible stocks from field to field within the control area.~~ (3-19-99)

~~ii. Rootstocks sold, moved, or transferred within the control area to other than the owners land must be accompanied by a valid transfer permit issued by the Department. Rootstocks moved without a transfer permit will~~



~~not be eligible for future sale or transfer. (8-1-80)~~

~~02. Inspection Procedures to Retain Eligibility. (8-1-80)~~

~~a. Existing plants within the control area will be inspected at least once every other year except those plantings intended for sale or transfer in which case they must have been inspected during the twelve (12) month period immediately prior to transfer. (8-1-80)~~

~~b. All new plantings of imported rootstocks will be inspected annually for the first two (2) consecutive years following initial planting and at least every twenty-four (24) months thereafter. (8-1-80)~~

~~c. It shall be the responsibility of the individual grower to notify the Department of movement of eligible stock into new fields, sales and/or purchase of rootstocks. The grower shall also initiate annual requests on or before July 1 for inspections to maintain eligibility. (3-19-99)~~

~~200~~ **151. MOVEMENT OF USED FARMING EQUIPMENT.**

**01. Clean and Free.** Used farm equipment including, but not limited to, tillage equipment, vehicles, and hop yard appurtenances moving into Idaho from the control quarantine area, must be clean and free of soil and plant material including, but not limited to, hop debris. (8-1-80)( )

**02. Requirements.** Freedom from plant material and soil may be accomplished by washing, steam cleaning, and/or use of a disinfectant appropriately labeled for the purpose. (8-1-80)

~~152~~ -- 199. (RESERVED)

**200. SPECIAL PERMITS.**

Any person(s) or agencies wishing to import covered commodities from the area under quarantine must apply in writing for a special permit as authorized by the director of the department. ( )

**01. Application.** Application for special permits must list the prospective buyer and seller; the number, and origin of stock; location of proposed planting site; and any other relevant information. ( )

**02. Conditions.** Special permits, when granted, may include such conditions as may be necessary to prevent disease establishment. All permitted material must be found free from regulated pests by the Clean Plant Center at Washington State University, Prosser, Washington, or an equivalent lab approved by the department. ( )

~~201~~ -- ~~249~~. (RESERVED)

~~250. POSTING OF FIELDS.~~

~~01. Purpose. All hop yards and nurseries within the control area shall be posted to prevent entry of unauthorized personnel and vehicles. (8-1-80)~~

~~02. Visibility. Signs shall be visible from adjacent public roadways or points of access to hop yards. (8-1-80)~~

~~251~~ -- 299. (RESERVED)

**300. PEST DETECTION.**

**01. Inspection.** If there is evidence of a regulated pest which is detected by visual inspection, the Department, in cooperation with the University of Idaho, Department of Plant, Soil and Entomological Sciences, will perform laboratory procedures sufficient to determine the causal organism. (3-19-99)( )

**02. Consequences.** Positive identification of the presence of Verticillium wilt, hop stunt viroid, ilar viruses, or powdery mildew virulently pathogenic to hops will result in loss of eligibility for sale or transfer for those

rootstocks within the infected field, ~~and in addition a directive may be issued~~ The director may also order that the infested area be removed from hop production and the soil be disinfested. (3-19-99)(    )

301. -- ~~349.~~ (RESERVED)

~~350.~~ **EXEMPTIONS.**

~~01. Agencies. This order does not apply to any governmental agency growing hops in experimental plots approved by the Director, Idaho State Department of Agriculture and under the supervision of qualified plant scientists. (3-19-99)~~

~~02. Quarantine Area. Such experimental plots shall serve as quarantine areas during the period that a clone is meeting the eligibility requirements for phytosanitary certification and be subject to Subsection 150.01.a. of this rule. (3-19-99)~~

~~03. Powdery Mildew Certification. All hop propagating materials to be shipped to all counties in Idaho shall be accompanied by a phytosanitary certificate issued by the state of origin's plant regulatory agency stating that the propagating material has been inspected and found apparently free from powdery mildew. The plant regulatory agency of the state of origin shall send a copy of the phytosanitary certificate to the Idaho State Department of Agriculture, Division of Plant Industries, 2270 Old Penitentiary Road, P.O. Box 790, Boise, Idaho 83701-0790, FAX (208) 334-2283. (3-19-99)~~

~~351.~~ 399. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

500. FEES AND CHARGES.

01. ~~Transfer Permits. For in-state sale of rootstocks: seven dollars and fifty cents (\$7.50) per certificate~~ Special Permits. For special permits for importation of hops from areas under quarantine, the fee will be sixty dollars (\$60) per permit. (8-1-80)(    )

02. ~~Phytosanitary Certificates. For exporting purposes: ten dollars (\$10) per certificate~~ General Fees and Charges. The fees and charges for inspection, certificates, and permits shall be as set forth in IDAPA 02.06.04, "Idaho Department of Agriculture, Phytosanitary and Post-Entry Certification Rules," Section 500. (8-1-80)(    )

~~03. Field Inspection. (8-1-80)~~

~~a. Application for field inspection: three dollars (\$3) per field. (8-1-80)~~

~~b. Late penalty fees: twenty dollars (\$20) per application on all applications received after July 1 of each year and prior to July 15. (8-1-80)~~

~~c. Acreage inspection fee: three dollars (\$3) per acre or fraction thereof per field. (8-1-80)~~

~~04. Laboratory Fees. Fifty dollars (\$50) per sample. (8-1-80)~~

501. -- 999. (RESERVED)

## IDAPA 02 - DEPARTMENT OF AGRICULTURE

### 02.06.27 - RULES GOVERNING BACTERIAL RING ROT CAUSED BY (*CLAVIBACTER MICHIGANENSIS* SUBSP. *SEPEDONICUS*) OF POTATO

#### DOCKET NO. 02-0627-1402 (NEW CHAPTER)

#### NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2015 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and of full force and effect upon adoption of the concurrent resolution, unless the rule is rejected.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 22-101A, 22-505, 22-1907, and 22-2006 Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 1, 2014 Idaho Administrative Bulletin, **Vol. 14-10, pages 34 through 39.**

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased:

The laboratory that performs the testing for *Clavibacter michiganensis*, subsp. *sepedonicus* will set the fee. Any other fees associated with seed potato certification or phytosanitary certification for export are detailed in those respective rules. See IDAPA 08.05.01.000 et seq. and 02.06.04.000 et seq., respectively.

**IDAHO CODE SECTION 22-101A STATEMENT:** This rule does regulate an activity not regulated by the federal government. The federal government does not regulate the movement of potatoes affected by Bacterial Ring Rot caused by (*Clavibacter michiganensis*, subsp. *sepedonicus*). This rule also helps to meet the shipping requirements of other states.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: ISDA does not anticipate any fiscal impact.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Lloyd B. Knight, Plant Industries Division Administrator, (208) 332-8620. Materials pertaining to this rulemaking can be found on the ISDA web site at the following web address: [http://www.agri.idaho.gov/Categories/LawsRules/sub\\_rules/Rulemaking.php](http://www.agri.idaho.gov/Categories/LawsRules/sub_rules/Rulemaking.php).

DATED this 4th Day of November, 2014.

Brian J. Oakey  
Deputy Director  
Idaho State Department of Agriculture  
2270 Old Penitentiary Rd.  
P.O. Box 790  
Boise, ID 83701  
Phone: (208) 332-8500  
Fax: (208) 334-2170

**THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE**

**AUTHORITY:** In compliance with Sections 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 22-101a, 22-505, 22-1907, and 22-2006, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 15, 2014.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

ISDA adopted a temporary rule regarding Bacterial Ring Rot (BRR) caused by *Clavibacter michiganensis*, subsp. *sepedonicus* on February 26, 2014, and that rule was published in the March 5, 2014, Idaho Administrative Bulletin **Vol. 14-3, pages 13 through 18**. ISDA continued the negotiated rulemaking process in order to present the rule to the Idaho Legislature in 2015 as a proposed rule. ISDA made certain changes to the existing temporary rule as a result of negotiated rulemaking. This proposed rule represents the final negotiated rulemaking and will supplant the temporary rule now in place at the end of the 2015 legislative session. This rule is in place to help prevent the introduction and/or spread of BRR into and through Idaho and the United States.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased:

The laboratory that performs the testing for *Clavibacter michiganensis*, subsp. *sepedonicus* will set the fee. Any other fees associated with seed potato certification or phytosanitary certification for export are detailed in those respective rules. See IDAPA 08.05.01.000 et seq. and 02.06.04.000 et seq., respectively.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: ISDA does not anticipate any negative fiscal impact.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 4, 2014, Idaho Administrative Bulletin, **Vol. 14-6, page 36**.

Negotiated rulemaking meetings were held in Pocatello, Idaho on June 17, July 9, and August 5, 2014. Representatives of the Idaho Crop Improvement Association, Idaho Potato Commission, Idaho Farm Bureau Federation, as well as multiple individual potato growers and producers, were present and provided comments to the draft rule. The final language of the proposed rule language incorporates the comments from the negotiated rulemaking meeting attendees and industry representatives.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

The "Rules Governing Seed and Plant Certification" IDAPA 08.05.01.000 are incorporated by reference because those rules include detailed requirements regarding inspection and sampling related to BRR.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Lloyd B. Knight, Plant Industries Division Administrator, (208) 332-8620 or email [Lloyd.Knight@agri.idaho.gov](mailto:Lloyd.Knight@agri.idaho.gov). Materials pertaining to this rulemaking can be found on the ISDA web site at the following web address: [http://www.agri.idaho.gov/Categories/LawsRules/sub\\_rules/Rulemaking.php](http://www.agri.idaho.gov/Categories/LawsRules/sub_rules/Rulemaking.php).

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2014.

DATED this 8th Day of September, 2014.

**LSO RULES ANALYSIS MEMO**

**THE FOLLOWING IS THE TEXT OF FEE DOCKET NO. 02-0627-1402**

**IDAPA 02**  
**TITLE 06**  
**CHAPTER 27**

**02.06.27 - RULES GOVERNING BACTERIAL RING ROT CAUSED BY**  
**(CLAVIBACTER MICHIGANENSIS SUBSP. SEPEDONICUS) OF POTATO**

**000. LEGAL AUTHORITY.**

This chapter is adopted under the legal authority of Title 22, Chapters 1, 5, 19 and 20 Idaho Code. ( )

**001. TITLE, SCOPE, AND INVESTIGATIONS.**

**01. Title.** The title of this chapter is IDAPA 02.06.27, "Rules Governing Bacterial Ring Rot Caused By (*Clavibacter michiganensis* subsp. *sepedonicus*) of Potato." ( )

**02. Scope.** These rules are to prevent the introduction and/or spread of *Cms* and subsequently bacterial ring rot into and through Idaho and the United States. These rules govern mandatory and voluntary reporting, mandatory testing, trace back, inspection, investigation, sampling and laboratory analysis of samples. Further, these rules will help ensure that, along with all other Idaho agricultural commodities, commercial potatoes grown in and exported from Idaho and, in particular, that seed potatoes being grown for planting in, exported from or imported into Idaho are of the highest quality. The official citation of this Chapter is IDAPA 02.06.27.000 et seq. For example, this section's citation is IDAPA 02.06.27.001. ( )

**03. Trace Back Investigations.** The public disclosure of information obtained during an investigation conducted under this rule shall be subject to disclosure to the public only insofar as it is allowed by Title 9, Chapter 3, Idaho Code. ( )

**002. WRITTEN INTERPRETATIONS.**

There are no written interpretations of these rules. ( )

**003. ADMINISTRATIVE APPEAL.**

There is no provision for administrative appeal before the Idaho State Department of Agriculture under this chapter. Persons may be entitled to appeal agency actions authorized under these rules pursuant to Title 67, Chapter 52, Idaho Code. ( )

**004. INCORPORATION BY REFERENCE.**

Copies of the following document may be viewed at the Idaho State Department of Agriculture, 2270 Old Penitentiary Road, PO Box 790, Boise, Idaho 83701. IDAPA 02.06.27 incorporates by reference: ( )

**01. IDAPA 08.05.01.000 et seq., “Rules Governing Seed and Plant Certification” and materials incorporated therein by reference.** A copy of which may be accessed online at: <http://adminrules.idaho.gov/rules/current/08/index.html>. ( )

**005. ADDRESS, OFFICE HOURS, TELEPHONE, AND FAX NUMBERS.**

**01. Physical Address.** The central office of the Idaho State Department of Agriculture is located at 2270 Old Penitentiary Road, Boise, Idaho 83712-8266. ( )

**02. Office Hours.** Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. ( )

**03. Mailing Address.** The mailing address for the central office is Idaho State Department of Agriculture, P.O. Box 790, Boise, Idaho 83701-0790. ( )

**04. Telephone Number.** The telephone number of the central office is (208) 332-8500. ( )

**05. Fax Number.** The fax number of the central office is (208) 334-2170. ( )

**006. PUBLIC RECORDS ACT COMPLIANCE.**

These rules are public records and are available for inspection and copying at the Idaho State Department of Agriculture central office. ( )

**007. -- 009. (RESERVED)**

**010. DEFINITIONS.**

In addition to the definitions in Sections 22-1904 and 22-2005, Idaho Code, the following definitions shall apply in the interpretation and the enforcement of this rule: ( )

**01. Bacterial Ring Rot.** Caused by a bacterium, *Clavibacter michiganensis* subsp. *sepedonicus* (Cms). ( )

**02. Contact Lot.** A seed lot produced on a farming operation using common production and handling equipment and/or storage facilities. ( )

**03. Department.** The Idaho State Department of Agriculture. ( )

**04. Director.** The Director of the Idaho State Department of Agriculture. ( )

**05. Idaho Crop Improvement Association, Inc.** A grower association of certified seed producers and conditioners. In 1959, the Regents of the University of Idaho appointed the Idaho Crop Improvement Association, Inc. as its duly authorized agent to administer and conduct seed certification in Idaho. ( )

**06. Person.** An individual, partnership, corporation, firm, association, agent, grower, processor, shipper or inspector. ( )

**07. Seed Lot.** A field or a group of fields producing seed potatoes or the potatoes (tubers) harvested from a seed potato field, identified with a certification number and a North American Plant Health Certificate, enabling identity preservation and tracking. ( )

**08. Seed Potato Certification Process.** The process, timing and requirements for the certification of seed potatoes in Idaho, as set forth in IDAPA 08.05.01, Rules Governing Seed and Plant Certification and the materials incorporated therein by reference. ( )

**09. Seed Stock.** Seed potatoes intended for use as a planting source for certification that are “Identity Preserved” with a certification number and a North American Plant Health Certificate. ( )

10. **Sister Lot.** Seed lots originating from the same lot of seed stock. ( )

**011. ABBREVIATIONS.**

01. **BRR.** Bacterial Ring Rot. ( )

02. **Cms.** *Clavibacter michiganensis* subsp. *sepedonicus*. ( )

03. **ISDA.** Idaho State Department of Agriculture. ( )

04. **ICIA.** Idaho Crop Improvement Association. ( )

**012. APPLICABILITY.**

These rules apply to the reporting, trace back, investigation, inspection, sampling, lab analysis and testing related to *Cms* and *Cms*-caused BRR in Idaho. ( )

**013. -- 019. (RESERVED)**

**020. REGULATED PEST - BACTERIAL RING ROT.**

Caused by a bacterium, *Clavibacter michiganensis* subsp. *sepedonicus* (*Cms*). ( )

**021. -- 100. (RESERVED)**

**101. REPORTING OF BRR.**

01. **Mandatory Reporting.** It is mandatory for any person, including but not limited to a grower, processor, shipper, laboratory staff member, field inspector, and/or shipping point inspector, to immediately report the presence of BRR to the Department when: ( )

a. The BRR is discovered or observed in seed potato plants or tubers prior to final seed potato certification by ICIA; and ( )

b. The presence of BRR is confirmed via laboratory testing; and ( )

c. The positive tubers or plant parts are still in the possession of the original seed grower. ( )

02. **Contents.** All reports shall, to the best of the reporter's ability, contain the following information: ( )

a. The field, facility or other location at which *Cms* was found; ( )

b. The date of discovery; ( )

c. The location at which the suspect potatoes were grown; ( )

d. The variety and generation of the suspect potatoes; ( )

e. The laboratory submission report and test results; ( )

f. The certification tags and origin of the seed potatoes used to produce the suspect crop; ( )

g. North American Plant Health Certificate. ( )

03. **Methods of Reporting.** The report shall be made by phone, in person or in writing (which may include electronic mail sent to [BRR@agri.idaho.gov](mailto:BRR@agri.idaho.gov)). Full Department headquarters contact information is listed in Section 005 of this rule. ( )

**102. HOLD HARMLESS.**

Reporting parties and those parties participating in and cooperating with the Department's trace back investigation of any alleged *Cms* contaminated potatoes will be held harmless from any civil penalties the Department has authority to issue under Section 500 of these Rules. ( )

**103. TRACE BACK INVESTIGATION, SAMPLING, AND TESTING.**

**01. Trace Back and Investigation.** The department shall, upon receiving a mandatory report of *Cms* infected potatoes, investigate the origin and destination of such potatoes. Trace back and investigation activities may include, but not be limited to: ( )

**a.** A review of all inspection, certification, shipping and production records held by any person for the potatoes in question; ( )

**b.** Inspection and sampling at the reporting operation as well as points for origin, storage and destination related to that operation; and ( )

**c.** Laboratory testing records of any samples. ( )

**02. Mutual Cooperation.** The Department and the Idaho Crop Improvement Association shall mutually cooperate with each other in trace back investigations where appropriate. ( )

**03. Testing Positive for *Cms*.** If certified seed potatoes in a lot test positive for *Cms* after they have left the control of the grower of that lot, ISDA's trace back investigation may include *Cms* testing any remaining seed from that lot that is still at the seed potato grower's facility. The testing level will be at a rate, depending on lot size, up to a maximum of four hundred (400) randomly selected tubers. ( )

**104. RESTRICTION ON THE USE OF INFECTED POTATOES.**

Those potatoes found to be infected with *Cms* may not be utilized for planting as seed. ( )

**105. -- 149. (RESERVED)**

**150. TESTING FOR BRR.**

**01. Compliance With Certification Standards.** Seed potato tubers for planting for commercial production or for seed certification in Idaho or being imported into Idaho as seed potatoes for commercial production or certification as seed for planting must comply with the ICIA Rules of Certification for Seed Potatoes in Idaho as they relate to *Cms*, as incorporated in Section 004 of this rule. ( )

**02. Seed Potatoes to Be Exported Tested.** Seed potato tubers being exported from Idaho to a foreign country as seed potatoes for planting must meet all ICIA requirements for certification and export tag placement, as well as all phytosanitary certification requirements of the importing country. All costs for sampling, transport and testing shall be borne by the exporter. ( )

**151. -- 399. (RESERVED)**

**400. HOLD ORDERS.**

The Director may authorize Hold Orders restricting the movement of infested or suspect potatoes until investigation, trace back, and sample analysis are complete. Hold Orders may require verification that said potatoes will not be utilized for any purposes not authorized in writing by the Department. When potatoes from a certified seed potato lot are sampled and test positive for BRR after the seed potatoes have left the seed potato grower's facility, the department will not issue a hold order on any seed potatoes from that lot that remain on the seed potato grower's facility unless and until potatoes from the affected lot are sampled at the seed potato grower's facility and test positive for BRR. ( )

**401. -- 449. (RESERVED)**



**450. FEES.**

Fees for samples for laboratory testing for *Cms* shall be those normally charged by the approved laboratory doing the testing. ( )

**451. -- 499. (RESERVED)**

**500. VIOLATIONS.**

Any person violating any provisions of these rules or not cooperating with investigations conducted under the authority of this rule shall be subject to the provisions of Section 22-504, 22-1913 and 22-2020, Idaho Code. ( )

**501. -- 999. (RESERVED)**

## IDAPA 02 - IDAHO STATE DEPARTMENT OF AGRICULTURE

### 02.08.01 - SHEEP AND GOAT RULES OF THE IDAHO SHEEP AND GOAT HEALTH BOARD

#### DOCKET NO. 02-0801-1401

#### NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2015 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 25-129, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

There are no changes to the pending fee rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 3, 2014, Idaho Administrative Bulletin, [Vol. 14-9, pages 73 through 79](#).

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 25-131, Idaho Code.

The pending rule reflects the changes mandated by legislation requiring an eighty cent (\$.80) per head assessment on goats and an increase from eight (\$.08) to ten cents (\$.10) per pound on wool. A total of twenty cents (\$.20) per head on goats and two cents (\$.02) per pound of wool will go to the newly created Wolf Depredation Control Board's Wolf Control Fund.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There is no negative fiscal impact to the general fund as a result of this rulemaking.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending fee rule, contact Stanley T. Boyd, Executive Secretary, Idaho Sheep and Goat health Board, P.O. Box 2596, Boise, ID 83701 or (208) 334-3115.

DATED this 15th day of October, 2014.

Stanley T. Boyd  
Executive Secretary  
Idaho Sheep and Goat Health Board  
802 W. Bannock St., Suite 205  
P.O. Box 2596  
Boise, ID 83701  
Tel: (208) 334-3115  
Fax: (208) 336-9447

**THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 25-129, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 17, 2014.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The proposed rule reflects the changes mandated by legislation passed that requires an eighty (80) cent per head assessment on goats and an increase from eight (8) cents to ten (10) cents per pound on wool. A total of twenty (20) cents per head on goats and two (2) cents per pound of wool will go to the newly created "Wolf Control Fund". The rule also clarifies the age at which dairy goats need to be tested for brucellosis prior to entering Idaho. Changes were also made in order to update the rule from the name "Idaho Sheep Commission" to "Idaho Sheep and Goat Health Board."

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased:

The rule will reflect the changes mandated by legislation requiring an eighty (80) cent per head assessment on goats and an increase from eight (8) cents to ten (10) cents per pound on wool. A total of twenty (20) cents per head on goats and two (2) cents per pound of wool will go to the newly created "Wolf Control Fund". These fees are authorized by Section 25-131, Idaho Code.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: NA

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 2, 2014, Idaho Administrative Bulletin, [Vol. 14-7, page 26](#).

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: NA

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Stanley T. Boyd, Executive Secretary, Idaho Sheep and Goat Health Board, P.O. Box 2596, Boise, ID 83701 or (208) 334-3115.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 24, 2014.

DATED this 7th Day of August, 2014.

**LSO RULES ANALYSIS MEMO**

**THE FOLLOWING IS THE TEXT OF FEE DOCKET NO. 02-0801-1401**

**010. DEFINITIONS.**

- 01. Accredited Veterinarian.** A veterinarian approved by the Administrator and USDA/APHIS/VS in accordance with provisions of Title 9, Part 161, Code of Federal Regulations to perform functions of State-Federal animal disease control programs. (3-20-04)
- 02. Administrator.** The administrator of the Division of Animal Industries, Idaho State Department of Agriculture or his designee. (3-20-04)
- 03. Animals.** All vertebrates, except humans. (3-20-04)
- 04. Authorized Federal Inspector.** An employee of USDA authorized by the Board to perform the functions of the Idaho Sheep and Goat Health Board. (3-20-04)
- 05. Authorized State Inspector.** An employee of the state of Idaho authorized by the Board to perform the functions of the Idaho Sheep and Goat Health Board. (3-20-04)
- 06. Board.** The Idaho ~~State~~ Sheep ~~Commission~~ and Goat Health Board or its designee. (~~3-20-04~~)(    )
- 07. Breeding Stock.** Intact male or female sheep or goats of any age. (3-20-04)
- 08. Brucellosis.** An infectious disease of animals and humans caused by bacteria of the genus *Brucella*. (3-20-04)
- 09. *Brucella Ovis* Test Positive.** An animal that tests in the positive range on an approved *Brucella ovis* ELISA test. (3-20-04)
- 10. *Brucella Ovis* Test Suspect.** An animal that tests in the suspect range on an approved *Brucella ovis* ELISA test. (3-20-04)
- 11. *Brucella Ovis* Test Negative.** An animal that tests in the negative range on an approved *Brucella ovis* ELISA test. (3-20-04)
- 12. Certificate.** An official certificate of veterinary inspection or other approved certificate issued by an accredited veterinarian, state or federal animal health official, or other approved official at the point of origin of the shipment of animal(s) being imported. (3-20-04)
- 13. Commercial Low-Risk Goats.** Intact or castrated goats, raised for fiber or meat, that are not registered or exhibited, that are not scrapie positive, suspect, high risk, or exposed animals and that have not been exposed to sheep or are not from a state that has scrapie in goats. (3-20-04)
- 14. Contemporary Lambing Group.** The time from the first birth to sixty (60) days post birthing of the entire group in a given lambing season. (3-20-04)
- 15. Department.** The Idaho State Department of Agriculture. (3-20-04)
- 16. Division of Animal Industries.** Idaho State Department of Agriculture, Division of Animal Industries. (3-20-04)
- 17. Exposed.** Animals that have had direct contact with other animals, herds, or materials that have

been determined to be infected with or affected by any infectious, contagious, or communicable disease. (3-20-04)

**18. Federal Animal Health Official.** An employee of USDA/APHIS/VS who has been authorized to perform animal health activities. (3-20-04)

**19. Flock.** Flock or flocks shall be interchangeable with the terms herd or herds and denote a group of one (1) or more animals that are fed, housed and birthed together on the same premises, or animals maintained in separate geographic areas that have interchange at or around the time of birth. Changes in ownership of a flock do not change the identity of the flock or the regulatory requirements applicable to the flock. (3-20-04)

**20. Flock Plan.** A written flock management agreement signed by the owner, his accredited veterinarian if there is one, a representative of the Division of Animal Industries, and an APHIS representative in which each signatory agrees to undertake action specified in the Flock Plan to eradicate or control scrapie as defined in 9 CFR Part 54.8 a-f. Goats exposed to scrapie will be subjected to the same rules as sheep. (3-20-04)

**21. Goats Requiring Premises/Flock Identification Number.** Sexually intact goats or goats that have resided on the same premises as sheep or any other goats not defined in Subsection 010.13. (3-20-04)

**22. Idaho Premises/Flock Identification Number.** A unique identification number or alphanumeric designation approved by APHIS, and assigned by the Board to each premises/flock of breeding sheep or goats, as defined in Subsection 010.21, in the state of Idaho. (3-20-04)

**23. Low Risk Commercial Sheep.** Commercial whiteface, whitefaced cross, or commercial hair sheep from a flock with no known risk factors for scrapie, including any exposure to female blackfaced sheep, that are identified with a permanent brand or ear notch pattern registered with an official brand registry and that are not scrapie-positive, suspect, high-risk, or exposed animals and are not animals from an infected, source, or exposed flock. (3-20-04)

**24. Negative.** Animals are classified as negative when they have been subjected to official tests for a disease, and the tests performed have failed to disclose evidence of the disease. (3-20-04)

**25. Official Individual Identification.** The unique identification of individual animals with an alpha numeric number applied as a tag, a legible tattoo, electronic device, or any other device approved by APHIS. The Idaho Premises/Flock Identification number can serve as the official individual identification number if it contains a unique individual animal number in addition to the Idaho premises/flock identification number. (3-20-04)

**26. Post Exposure Monitoring and Management Plan.** A monitoring plan which includes a written agreement signed by the owner of the flock and a representative of the Division of Animal Industries and an APHIS representative in which each participant agrees to undertake actions specified in the agreement to monitor for the occurrence of scrapie in the flock for at least five (5) years after an approved Flock Plan has been completed. The PEMMP requires at least once a year flock inspections and prompt reporting of any animal over fourteen (14) months of age which dies in the flock so that some of these animals can be selected and submitted for scrapie testing. The Plan also includes the requirements outlined in 9 CFR Part 54.8. Owners may request to join the Scrapie Flock Certification Program after two (2) years of participation in the PEMMP. (3-20-04)

**27. Premises.** The ground, area, buildings and equipment utilized to raise, propagate or control sheep and goats. (3-20-04)

**28. Quarantine.** A written order, executed by the Board or the Administrator, to confine or hold animals on a premises or any other location, where found, and prevent movement of animals from a premises or any other location. (3-20-04)

**29. Scrapie.** A transmissible spongiform encephalopathy that is a nonfebrile, transmissible, insidious, degenerative disease affecting the central nervous system of sheep and goats. (3-19-99)

**30. Scrapie Exposed Animal.** Any animal which has been in the same flock at the same time within the previous seventy-two (72) months as a scrapie positive female animal excluding limited contacts. Limited

contacts are contacts between animals that occur off the premises of the flock and do not occur during or within sixty (60) days after parturition for any of the animals involved. (3-20-04)

**31. Scrapie Flock Certification Program.** A cooperative Federal-State-Industry voluntary program for reducing the incidence and controlling the spread of scrapie through flock certification. (3-20-04)

**32. Scrapie High Risk Animal.** An animal determined by epidemiologic investigation to face a high risk of developing clinical scrapie because the animal was: (3-20-04)

**a.** Progeny of a scrapie-positive dam; (3-20-04)

**b.** Born in the same contemporary lambing group as a scrapie-positive animal, or (3-20-04)

**c.** During any subsequent lambing season if born before the flock completes the requirements of a flock plan; or (3-20-04)

**d.** Born in the same contemporary lambing group as progeny of a scrapie-positive dam or any QQ, at codon 171, sheep present in the lambing facility/area where a scrapie-positive animal was born during the contemporary birth of a scrapie-positive animal. (3-20-04)

**e.** Animals that fit the criteria for high risk animals which are determined by genetic testing to be QR or RR at the 171 codon, or are determined by other recognized testing procedures to pose no risk, may be exempted as high risk animals by the Board, upon the recommendation of the State Scrapie Certification Board, based upon evidence from the latest research information available. (3-20-04)

**33. Scrapie Infected Flock.** Any flock in which a scrapie-positive animal has been born, birthed or aborted. A flock will no longer be considered infected after an approved Flock Plan has been completed. (3-20-04)

**34. Scrapie-Positive Animal.** An animal for which a diagnosis of scrapie has been made by the National Veterinary Services Laboratories, or another laboratory authorized by state or federal officials to conduct scrapie tests approved for scrapie diagnosis by APHIS or the Administrator. (3-20-04)

**35. Scrapie Source Flock.** A flock in which an animal was born and subsequently diagnosed as scrapie-positive at less than seventy-two (72) months of age. The flock will no longer be considered a source flock after the requirements of an approved Flock Plan have been completed. A trace to a flock must meet the following criteria to designate the flock as a source flock: The scrapie-positive animal must: (3-20-04)

**a.** Be identified with a Premises/Flock Identification Number, or on an official eartag, electronic device, ear tattoo, or flank tattoo which is correlated to the Premises/Flock Identification number on flock records; or (3-20-04)

**b.** Be identified with a genetic heredity test or nose print; or (3-20-04)

**c.** Possess the original registry eartag or individual identification ear tag along with the movement, production, or registry records indicating birth in the source flock; or (3-20-04)

**d.** Be traced to the flock by a veterinary epidemiologist through a thorough epidemiological investigation of records and all other available evidence. (3-19-99)

**36. State Animal Health Official.** The Administrator, or his designee, responsible for disease control and eradication programs. (3-20-04)

**37. State Scrapie Certification Board.** The State Scrapie Certification Board will consist of APHIS-AVIC, the State animal health official, animal producers and accredited veterinarians. Animal producers and accredited veterinarians will be appointed by the AVIC and the State animal health official. (3-20-04)

**38. Terminal Feedlot.** As defined in Title 9 CFR, Parts 54 and 79. (3-20-04)

39. **Trace.** All actions required to identify the flock of origin or destination of an animal. (3-20-04)

**(BREAK IN CONTINUITY OF SECTIONS)**

**013. OFFICIAL IN CHARGE OF SHEEP AND GOATS.**

The Idaho ~~Board of~~ Sheep ~~Commission~~ and Goat Health Board is authorized to regulate all matters concerning sheep and goats. (3-20-04)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**101. PERMITS.**

**01. Request for Permits.** Request for the permits required under Section 100 shall be in writing, by telephone or facsimile and shall set forth the name and address of the owner of the animals offered for movement into the state of Idaho, the number and class of sheep and goats to be brought in, the destination, the name and address of the consignee, and the approximate date and place of entry. A copy of the permit, or permit number written on the face of the waybill or certificate of veterinary inspection accompanying movement, shall be shown to a representative of the Board or any law enforcement officer of the state, county, or municipality of the state of Idaho upon request. (3-20-04)

**02. Certificates of Veterinary Inspection to Be Furnished.** Copies of the certificates of veterinary inspection from the point of origin shall accompany the shipment and shall include a copy of the permit or the permit number written on the face of the certificate of veterinary inspection and shall be shown to a representative of the Board or any law enforcement officer of the state, county, or municipality of the state of Idaho upon request, and a copy forwarded to the Idaho Department of Agriculture, Division of Animal Industries, c/o Idaho ~~Board of~~ Sheep ~~Commission~~ and Goat Health Board, P.O. Box 7249, Boise, Idaho 83707 immediately after issuance for sheep and goats entering the state of Idaho. (3-19-04)( )

**03. Inspection Fees.** An inspection fee of one hundred dollars (\$100) per incidence, plus mileage, shall be paid on all sheep and goats exported from or imported into Idaho in violation of these rules. Such incidences require an inspection of animals, certificates of veterinary inspection and permit. (3-20-04)

**04. Examination and Treatment Fees.** The Board may assess a fee on sheep and goat producers who receive services from the Board or its representatives, such as examination and treatment of animals for diseases or parasites. The fees assessed shall not exceed the actual costs for the services rendered. (3-19-99)

**(BREAK IN CONTINUITY OF SECTIONS)**

**104. DAIRY GOATS.**

All dairy type goats, including bucks, entering the state of Idaho shall be accompanied by a permit issued by the Board, together with a certificate of veterinary inspection issued at point of origin by an authorized veterinarian; ~~to which certificate of veterinary inspection there shall be attached a negative test chart~~ All dairy type goats, including bucks, aged six (6) months or older shall have been tested negative for *Brucella melitensis*; ~~conducted~~ within thirty (30) days of the date of entry into the state of Idaho. The negative test chart shall be signed by the person in charge of the laboratory where the test was made and approved by the state animal health official of the state of origin and attached to the certificate of veterinary inspection. Goats entering Idaho on a short term temporary basis for show or other temporary purposes may be exempted from having a negative test for *Brucella melitensis* completed, with permission from the Board. (3-20-04)( )

(BREAK IN CONTINUITY OF SECTIONS)

107. INTERSTATE SHIPMENTS.

01. **Waybill Requirement.** All sheep and goats leaving the state of Idaho by any common carrier, by railroad, truck, private conveyance, or any kind of transportation shall be accompanied by a waybill, stating the owner's name and indicating destination of sheep or goats, or shall be accompanied by a certificate of veterinary inspection issued by an inspector appointed by the Board or a representative of the APHIS or accredited veterinarian; said certificates of veterinary inspection to be dated not more than ~~ten~~ thirty (~~30~~) days prior to date of movement, and shall comply with the rules for the state of destination. (3-20-04)( )

02. **Waybill Violation.** Failure to have such waybills or other documents accompanying the sheep or goats shall constitute a violation of these rules and shall be punishable as provided in Section 900. (3-20-04)

03. **Carriers.** No common or contract carrier or owner or caretaker shall unload any breeding sheep, breeding goats, or dairy goats within the state of Idaho from other states or country, other than as provided in Sections 103, 105, 106, and 107, of these rules, unless such shipments be accompanied by an Idaho Origin Sheep Interstate Grazing Permit issued by the Board or other permit issued by the Board, and the official certificate as provided herein. The original or true copy of each certificate with permit shall be attached to the waybill covering such shipments or be in possession of the owner or caretaker of shipment. (3-20-04)( )

04. **Who May Inspect.** Authorized state or federal inspectors and accredited veterinarians may inspect sheep and goats. (3-20-04)

(BREAK IN CONTINUITY OF SECTIONS)

700. SHEEP ASSESSMENTS.

The following rules shall apply to all sheep. (3-20-04)

01. **Payment of Assessment.** The owner of sheep on July 1st of the assessment year shall be responsible for the payment of the assessment levied by the Boards as provided for in Section 25-130 and 25-131, Idaho Code. The rate of assessment shall be ~~six~~ eight cents (\$.068) per pound on all wool, in the grease basis, except tags, crutchings, and dead wool. (3-18-99)( )

02. **Assessment as Resident Sheep.** The assessment shall be levied and assessed to the producer at the time of the first sale of wool and shall be deducted by the first purchaser from the price paid to the producer at the time of such sale. (5-5-80)

03. **Migratory Sheep.** In the event that a sheep, which produces wool subject to this assessment, shall be located outside the state of Idaho during a part of the assessment year, the amount of the assessment shall be reduced on a pro rata basis. A grower will be required to request a pro rata adjustment in writing to the Board. (3-19-99)

04. **Costs of Collection.** All costs of collection of delinquent assessments shall be borne as an additional charge against the delinquent assessee first purchaser. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

701. GOAT ASSESSMENTS.

The following rules shall apply to all goats. ( )

01. Payment of Assessment. The owner of goat(s) shall be responsible for the payment of the assessment levied by the Board as provided for in Sections 25-130 and 25-131, Idaho Code. The rate of assessment



shall be eighty cents (\$.80) per head. ( )

**02. Assessment as Resident Goats.** The assessment shall be levied and assessed to the producer at the time of the sale of said goat(s) and shall be deducted by the first purchaser from the price paid to the producer at the time of such sale. ( )

**03. Migratory Goats.** In the event that a goat, which is subject to this assessment, shall be located outside the state of Idaho during a part of the assessment year, the amount of the assessment shall be reduced on a pro rata basis. A grower will be required to request a pro rata adjustment in writing to the Board. ( )

**04. Costs of Collection.** All costs of collection of delinquent assessments shall be borne as an additional charge against the delinquent assessee first purchaser. ( )

~~7042~~. -- 899. (RESERVED)